

March 13, 2003

Akin Supports Medical Malpractice Reform Measure in House Vote Missouri Congressman Says Measure Will “Keep Healthcare Accessible to Missourians”

Washington, D.C. - Today's vote in the U.S. House of Representatives to discourage predatory medical lawsuits is a major step toward “restoring common sense to the practice of medical liability law,” according to U.S. Rep. Todd Akin (R-MO).

“This measure safeguards physicians from excessive litigation while affirming their right to sue for actual injury,” said Akin of the Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2003 (H.R. 5). “The HEALTH Act institutes restrictions that will limit frivolous lawsuits, which have resulted in the explosive rise of medical insurance costs for health care providers.”

Akin, chairman of the House Small Business Subcommittee on the Workforce, noted that under current laws, many physicians, including family practitioners, are adversely affected by the steady stream of lawsuits to which they are subject by the plaintiff's bar.

“The system is broken when doctors are choosing to retire early or seek another profession altogether because of skyrocketing malpractice insurance costs that spring from lawsuits driven by attorneys, not patients seeking remedy.

“In Missouri, Ob-Gyns have seen premium increases of up to 1,000 percent. And a recent survey by the Missouri State Medical Association found that over 30 percent of physicians who responded were thinking about ending their medical practice. That would be a dangerous erosion of care for the people of our state.

“The bill we passed today would keep healthcare accessible to Missourians and all Americans, and addresses the over 500 percent increase in malpractice insurance costs since 1976. It also preserves the right of patients to recover 100 percent of economic losses, medical costs and lost wages, while capping solely non-economic damages,” Akin concluded.

Following is a summary of the legislation from the U.S. House Republican Conference:

- H.R. 5 “provides for a three-year statute of limitations with certain exceptions for minors, fraud, intentional concealment, and the presence of a foreign body.

- The measure also “provides for a \$250,000 cap on non-economic or ‘pain and suffering’ damages. Guidelines governing the award of punitive damages provide that awards not exceed the greater of \$250,000 or twice economic damages. Damages are governed by a “fair share” rule, by which damages are allocated fairly, in direct proportion to fault.

- H.R. 5 reforms current law to allow defendants to introduce evidence showing the plaintiff received compensation for losses from other sources to prevent double recoveries. It provides a safe harbor from punitive damages for: (1) manufacturers of products that are FDA-approved, with exception for those who give false or incomplete information or who make illegal payments, and (2) protects pharmacists and doctors from being named in lawsuits for forum-shopping purposes.

- In addition, the bill authorizes courts to require periodic payment of future awards over time. The measure limits the fees attorneys can collect on a sliding scale; 40 percent of the first \$50,000 awarded, 33.3 percent of the next \$50,000 awarded, 25 percent of the next \$500,000 awarded, and 15 percent of any award over \$600,000. Pursuant to a savings clause, State laws limiting damages to specific amounts are not preempted by H.R. 5.